
SENATE BILL 6067

State of Washington

61st Legislature

2009 Regular Session

By Senator Kline

Read first time 02/20/09. Referred to Committee on Judiciary.

1 AN ACT Relating to delayed sentencing for offenders with a standard
2 range under one year; amending RCW 9.94A.500; and adding a new section
3 to chapter 9.94A RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
6 to read as follows:

7 (1) An offender is eligible for the delayed sentencing option if:

8 (a) The offender is convicted of a felony that is not a violent
9 offense or sex offense and the violation does not involve a sentence
10 enhancement under RCW 9.94A.533 (3) or (4);

11 (b) The offender is convicted of a felony that is not a felony
12 driving while under the influence of intoxicating liquor or any drug
13 under RCW 46.61.502(6) or felony physical control of a vehicle while
14 under the influence of intoxicating liquor or any drug under RCW
15 46.61.504(6);

16 (c) The offender has no current or prior convictions for a sex
17 offense at any time or violent offense within ten years before
18 conviction of the current offense, in this state, another state, or the
19 United States;

1 (d) The offender has not been found by the United States attorney
2 general to be subject to a deportation detainer or order and does not
3 become subject to a deportation order during the period in which the
4 court has jurisdiction for the current offense; and

5 (e) The standard sentence range for the current offense is one year
6 or less and the offender would otherwise serve his or her sentence in
7 a county jail.

8 (2) A motion for consideration of the delayed sentencing option
9 under this section may be made by the court, the offender, or the
10 prosecutor. If the court grants the motion, an offender may elect to
11 participate in the delayed sentencing option under terms set by the
12 court.

13 (3)(a) Upon entry of a plea of guilty, if the court determines that
14 a delayed sentence under this section is appropriate, the court shall
15 continue the sentencing hearing for a period set by the court up to
16 three hundred sixty-five days and order presentence release conditions
17 pending sentencing.

18 (b) An offender must submit a chemical dependency, domestic
19 violence, or mental health evaluation to the court at the time a guilty
20 plea is entered in order to be considered for inpatient or outpatient
21 treatment as a condition of the delayed sentencing option.

22 (c) At the discretion of the court, an offender may participate in
23 the delayed sentencing option whether or not treatment is imposed as a
24 condition of the delayed sentencing option.

25 (4) The delayed sentencing option shall include:

26 (a) A requirement not to possess or use any controlled substances
27 without a valid prescription;

28 (b) A requirement to submit to urinalysis or other testing to
29 monitor compliance;

30 (c) A release of information signed by the offender authorizing any
31 treatment provider to provide notice of noncompliance to the court,
32 defense counsel, and the prosecutor;

33 (d) A requirement to remain within prescribed geographical
34 boundaries while sentencing is pending;

35 (e) A requirement to commit no criminal law violations;

36 (f) A requirement to report any change of address, employment, or
37 phone number to the prosecutor, defense counsel, and any treatment
38 provider;

1 (g) A requirement to make monthly payments set by the court or the
2 county clerk on restitution ordered by the court prior to sentencing,
3 and to pay any fees assessed by the clerk and the costs of any
4 treatment and testing including urinalysis, unless provided at public
5 expense;

6 (h) A requirement to stay out of prescribed geographical
7 boundaries, if designated by the court; and

8 (i) Other crime-related conditions as the court may require.

9 (5)(a) The delayed sentencing option may include a period of
10 appropriate inpatient or outpatient substance abuse, domestic violence,
11 or mental health treatment in a program that has been approved by the
12 department of social and health services.

13 (b) The treatment provider must submit periodic status reports to
14 the court, defense counsel, and the prosecutor relating to the
15 offender's progress in treatment. The treatment provider must notify
16 the court, defense counsel, and the prosecutor of any noncompliance by
17 the offender within seventy-two hours.

18 (6)(a) The court may require any offender subject to this section
19 to appear in court during the postconviction period pending sentencing
20 to review compliance with conditions, including treatment requirements.

21 (b) The court may modify the terms of the delayed sentencing order
22 or impose sanctions under (c) of this subsection.

23 (c) The court may revoke the delayed sentencing option and sentence
24 the offender to a term of total confinement or county-approved
25 alternative to total confinement within the standard range for the
26 offender's current offense at any time during the postconviction period
27 pending sentencing or at the sentencing hearing if the court finds by
28 a preponderance of the evidence that the offender violated the
29 conditions of the delayed sentencing order or the offender is failing
30 to make satisfactory progress in treatment.

31 (d) An offender ordered to serve a term of total or partial
32 confinement under (c) of this subsection shall receive credit for any
33 time previously served under this section.

34 (7) If an offender subject to this section is found by the United
35 States attorney general to be subject to a deportation order, a hearing
36 shall be held by the court unless waived by the offender, and, if the
37 court finds that the offender is subject to a valid deportation order,

1 may terminate the offender from the delayed sentencing option and
2 immediately sentence the offender to a term of total confinement within
3 the standard range for the offender's current offense.

4 (8)(a) An offender participating in the delayed sentencing option
5 under this section shall be subject to all rules relating to earned
6 release time with respect to any period served in postconviction
7 treatment pursuant to this section.

8 (b) An offender ordered to participate in treatment pending
9 sentencing under this section shall be given one day credit for each
10 day of participation in inpatient and outpatient treatment.

11 (9) Costs of examinations and preparing treatment plans under this
12 section may be paid, at the option of the county, from funds provided
13 to the county from the criminal justice treatment account under RCW
14 70.96A.350.

15 (10) A delayed sentence under this section does not constitute a
16 suspended or deferred sentence under RCW 9.94A.575.

17 **Sec. 2.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
18 as follows:

19 (1) Before imposing a sentence upon a defendant, the court shall
20 conduct a sentencing hearing. Except as provided in section 1 of this
21 act, the sentencing hearing shall be held within forty court days
22 following conviction. Upon the motion of either party for good cause
23 shown, or on its own motion, the court may extend the time period for
24 conducting the sentencing hearing.

25 Except in cases where the defendant shall be sentenced to a term of
26 total confinement for life without the possibility of release or, when
27 authorized by RCW 10.95.030 for the crime of aggravated murder in the
28 first degree, sentenced to death, the court may order the department to
29 complete a risk assessment report. If available before sentencing, the
30 report shall be provided to the court.

31 Unless specifically waived by the court, the court shall order the
32 department to complete a chemical dependency screening report before
33 imposing a sentence upon a defendant who has been convicted of a
34 violation of the uniform controlled substances act under chapter 69.50
35 RCW, a criminal solicitation to commit such a violation under chapter
36 9A.28 RCW, or any felony where the court finds that the offender has a
37 chemical dependency that has contributed to his or her offense. In

1 addition, the court shall, at the time of plea or conviction, order the
2 department to complete a presentence report before imposing a sentence
3 upon a defendant who has been convicted of a felony sexual offense.
4 The department of corrections shall give priority to presentence
5 investigations for sexual offenders. If the court determines that the
6 defendant may be a mentally ill person as defined in RCW 71.24.025,
7 although the defendant has not established that at the time of the
8 crime he or she lacked the capacity to commit the crime, was
9 incompetent to commit the crime, or was insane at the time of the
10 crime, the court shall order the department to complete a presentence
11 report before imposing a sentence.

12 The court shall consider the risk assessment report and presentence
13 reports, if any, including any victim impact statement and criminal
14 history, and allow arguments from the prosecutor, the defense counsel,
15 the offender, the victim, the survivor of the victim, or a
16 representative of the victim or survivor, and an investigative law
17 enforcement officer as to the sentence to be imposed.

18 A criminal history summary relating to the defendant from the
19 prosecuting authority or from a state, federal, or foreign governmental
20 agency shall be prima facie evidence of the existence and validity of
21 the convictions listed therein. If the court is satisfied by a
22 preponderance of the evidence that the defendant has a criminal
23 history, the court shall specify the convictions it has found to exist.
24 All of this information shall be part of the record. Copies of all
25 risk assessment reports and presentence reports presented to the
26 sentencing court and all written findings of facts and conclusions of
27 law as to sentencing entered by the court shall be sent to the
28 department by the clerk of the court at the conclusion of the
29 sentencing and shall accompany the offender if the offender is
30 committed to the custody of the department. Court clerks shall
31 provide, without charge, certified copies of documents relating to
32 criminal convictions requested by prosecuting attorneys.

33 (2) To prevent wrongful disclosure of information related to mental
34 health services, as defined in RCW 71.05.445 and 71.34.345, a court may
35 take only those steps necessary during a sentencing hearing or any
36 hearing in which the department presents information related to mental
37 health services to the court. The steps may be taken on motion of the
38 defendant, the prosecuting attorney, or on the court's own motion. The

1 court may seal the portion of the record relating to information
2 relating to mental health services, exclude the public from the hearing
3 during presentation or discussion of information relating to mental
4 health services, or grant other relief to achieve the result intended
5 by this subsection, but nothing in this subsection shall be construed
6 to prevent the subsequent release of information related to mental
7 health services as authorized by RCW 71.05.445, 71.34.345, or
8 72.09.585. Any person who otherwise is permitted to attend any hearing
9 pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the
10 hearing solely because the department intends to disclose or discloses
11 information related to mental health services.

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